

**IN THE UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF MISSISSIPPI, JACKSON DIVISION**

RODNEY SCOTT

PLAINTIFF

v.

CIVIL ACTION NO. 3:10-cv-00444-HTW-LRA

KOCH FOODS OF MISSISSIPPI, LLC

DEFENDANT

DEFENDANT'S ANSWER TO PLAINTIFF'S COMPLAINT

Defendant Koch Foods of Mississippi, LLC, by its attorneys, responds to Plaintiff's
Complaint as follows:

THE PARTIES

1. Defendant admits Plaintiff is an adult male citizen. Defendant lacks sufficient information to admit or deny the remaining allegations in Paragraph 1.
2. Defendant admits the allegations in Paragraph 2.

JURISDICTION

3. Defendant admits that the Court has jurisdiction over this matter.
4. Defendant admits that venue is proper.
5. Defendant is without sufficient information to admit or deny the allegations in Paragraph 5 and therefore denies same.

STATEMENT OF FACTS

6. Defendant admits the allegations in Paragraph 6.
7. Defendant admits the allegations in Paragraph 7.
8. Defendant denies the allegations in Paragraph 8.

9. Defendant admits Plaintiff made allegations to human resources about comments allegedly made by Taylor. Defendant denies that no action has been taken to investigate the alleged comments. Defendant denies the remaining allegations in Paragraph 9.

10. Defendant denies the allegations in Paragraph 10.

11. Defendant denies the allegations in Paragraph 11.

12. Defendant admits that Plaintiff and a Caucasian co-worker were suspended following an incident in which both allege they were assaulted by the other. Defendant denies the remaining allegations in Paragraph 12.

13. Defendant admits the allegations in Paragraph 13.

14. Defendant denies the allegations in Paragraph 14.

15. Defendant denies the allegations in Paragraph 15.

CAUSES OF ACTION

Count I: Race Discrimination-Violation of Title VII & 42 U.S.C. § 1981

16. Defendant repeats its answers to Paragraphs 1 through 15 above as if fully incorporated herein.

17. Defendant denies the allegations in Paragraph 17.

18. Defendant denies the allegations in Paragraph 18.

19. Defendant admits the allegations in Paragraph 19.

Count II: Retaliation

20. Defendant repeats its answers to Paragraphs 1 through 19 above as if fully incorporated herein.

21. Defendant denies the allegations in Paragraph 21.

Count III: Punitive Damages

22. Defendant repeats its answers to Paragraphs 1 through 21 above as if fully incorporated herein.

23. Defendant denies the allegations in Paragraph 23.

PRAYER FOR RELIEF

Defendant denies the allegations of the unnumbered paragraph beginning “WHEREFORE” and specifically denies that Plaintiffs are entitled to the requested relief or to any other relief whatsoever against it.

AFFIRMATIVE DEFENSES

First Affirmative Defense

Plaintiff's claim that he was harassed because of race is barred because Defendant exercised reasonable care to prevent and promptly correct any harassing conduct, and Plaintiff unreasonably failed to take advantage of preventative or corrective opportunities provided by Defendant and failed to report any harassing conduct of which he may have been aware.

Second Affirmative Defense

Upon information and belief, Plaintiff has failed to mitigate his damages and therefore, any relief is barred. In the alternative, to the extent Plaintiff has mitigated his damages, any relief must be reduced by his earnings, compensation and benefits during the relevant time period.

Third Affirmative Defense

Plaintiff cannot recover punitive damages because Defendant undertook good faith efforts to comply with federal and state anti-discrimination laws and to prevent discrimination and retaliation.

Fourth Affirmative Defense

Defendant pleads and affirmatively avails itself of any and all defenses available to it under Rule 12(b)(1)-12(b)(7) of the Federal Rules of Civil Procedure. Defendant hereby preserves and specifically does not waive any defense which might be or become available to it as discovery proceeds and the facts of the case develop.

Fifth Affirmative Defense

Defendant pleads any and all defenses available and which may be applicable under Rule 8(c), Fed. R. Civ. P.

Sixth Affirmative Defense

Defendant reserves the right to amend this answer and assert any additional defenses that may be applicable to Plaintiff's claims.

WHEREFORE, Defendant Koch Foods of Mississippi, LLC respectfully requests that the Complaint be dismissed in its entirety, with prejudice.

Respectfully submitted, this the 18th day of August, 2010

KOCH FOODS OF MISSISSIPPI, LLC

By: s/ Karen E. Howell
Karen E. Howell

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CERTIFICATE OF SERVICE

The undersigned attorney hereby certifies that she caused a true and correct copy of the foregoing to be served on the attorneys of record listed below by filing the foregoing electronically using the CM/ECF filing system:

Louis H. Watson, Jr., Esquire
Nick Norris, Esquire
Louis H. Watson, Jr., P.A.
628 North State Street
Jackson, MS 39202

This the 18th day of August, 2010.

s/ Karen E. Howell
Karen E. Howell